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Attorneys for
BROCADE COMMUNICATIONS SYSTEMS, INC.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

IN RE BROCADE COMMUNICATIONS
SYSTEMS, INC. DERIVATIVE LITIGATION

Case No. C 05-02233 CRB

This Document Relates to:

) STIPULATION AND [PROPOSED]
) ORDER EXTENDING TIME LIMIT
) TO ANSWER, MOVE OR
) OTHERWISE RESPOND TO THE
) SECOND AMENDED COMPLAINT

ALL ACTIONS

STIPULATION AND [PROPOSED] ORDER EXTENDING TIME LIMIT TO ANSWER, MOVE OR OTHERWISE
RESPOND TO THE SECOND AMENDED COMPLAINT

No. C05-02233-CRB

1 WHEREAS, the defendants Antonio Canova, Neal Dempsey, Seth D. Neiman, and Gregory
 2 Reyes (collectively the "original defendants") executed a waiver of service of summons in *Knee v.*
 3 *Reyes, et al.*, C-05-02233, which became the lead case among the consolidated cases;

4 WHEREAS, this Court ordered that related shareholder derivative cases including *Knee v.*
 5 *Reyes, et al.*, C-05-02233, be consolidated into a single derivative action on August 19, 2005;

6 WHEREAS, on January 6, 2006, this Court granted the motion to dismiss filed by Brocade
 7 Communications Systems, Inc. ("Brocade" or "the Company") and dismissed the consolidated
 8 amended derivative complaint with leave to amend after a demand had been made on and responded
 9 to by the Brocade Board of Directors;

10 WHEREAS, on February 22, 2008, Brocade's Board of Directors formed a Special Litigation
 11 Committee (the "SLC") to act on the Company's behalf with respect to derivative actions;

12 WHEREAS, on August 1, 2008, Brocade, by and through the SLC, filed a Second Amended
 13 Complaint in this action;

14 WHEREAS, Brocade sent waiver of service of summons forms to defendants Paul R.
 15 Bonderson, Jr., Robert Bossi, Jack Cuthbert, Stephanie Jensen, and Mark Leslie on August 5, 2008
 16 (collectively, the "added defendants"), each of whom was added as a defendant in this action by the
 17 Second Amended Complaint;¹

18 WHEREAS, by the terms of the waiver of service of summons, upon execution within the
 19 prescribed time period, the added defendants have sixty (60) days from August 5, 2008 by which to
 20 answer, move, or otherwise respond to the Second Amended Complaint, making their answer,
 21 motion, or other response due on or before October 6, 2008.

22 WHEREAS, the original defendants acknowledge and re-affirm their previously executed
 23 waivers of service of summons, and the original defendants and Brocade have agreed to put the
 24 original defendants on the same time period to answer, move, or otherwise respond to the Second
 25 Amended Complaint as the newly added defendants, namely, October 6, 2008.

26 ¹ Counsel for Brocade sent waiver of service of summons forms on August 6, 2008 to defendant
 27 Michael J. Byrd, who likewise was added to this action by the Second Amended Complaint.

1 NOW THEREFORE, the parties to this stipulation agree, subject to the Court's approval, as
2 follows:

- 3 1. Defendants Antonio Canova, Neal Dempsey, Seth D. Neiman, and Gregory
4 Reyes shall have to and including October 6, 2008, within which to answer,
5 move or otherwise respond to the Second Amended Complaint.
6 2. By entering this stipulation to establish a uniform response date, no party is
7 waiving any argument, right or defense (including, among other things, those
8 related to statutes of limitations issues), except as to issues related to service
9 of summons, as to which the original defendants hereby acknowledge and re-
10 affirm their previously executed waivers of service of summons.

11
12 Dated: August 13, 2008

Dewey & LeBoeuf LLP

13
14 By: /s/ Peter E. Root
15 Peter E. Root
16 Attorneys for Plaintiff and Nominal Defendant
Brocade Communications Systems, Inc.

17 Dated: August 13, 2008

Heller Ehrman LLP

18
19 By: /s/ Norman J. Blears
20 Norman J. Blears
21 Attorneys for Defendant
Antonio Canova

22 Dated: August 13, 2008

K&L Gates LLP

23
24 By: /s/ Jeffrey L. Bornstein
Jeffrey L. Bornstein
25 Attorneys for Defendant
Neal Dempsey

1 Dated: August 13, 2008

WilmerHale LLP

3 By: /s/ Jonathan A. Shapiro

4 Jonathan A. Shapiro
5 Attorneys for Defendant
Seth D. Neiman

6 Dated: August 13, 2008

Skadden, Arps, Slate, Meagher & Flom LLP

8 By: /s/ Garrett J. Waltzer

9 Garrett J. Waltzer
10 Attorneys for Defendant
Gregory L. Reyes

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1 **ATTESTATION PURSUANT TO GENERAL ORDER 45**

2 I Peter E. Root, attest that concurrence in the filing of this document has been obtained from
3 each of the other signatories. I declare under the penalty of perjury under the laws of the United
4 States of America that the foregoing is true and correct. Executed this 13th day of August 2008 at
5 East Palo Alto, California.

6 Dated: August 13, 2008

Dewey & LeBoeuf LLP

8 By: /s/ Peter E. Root
9 Peter E. Root

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14 *Attorneys for Plaintiff*
15 BROCADE COMMUNICATIONS
16 SYSTEMS, INC.

1
2 [PROPOSED] ORDER
3

4 Upon Stipulation of the Parties and good cause appearing therefore, IT IS SO
5
6 ORDERED.
7

8 Dated: August 18, 2008
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